

Agricultural Lease Review Report

November 1998



LEGISLATIVE ASSEMBLY
ALBERTA

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The Public land base in the White (settled) Area of the province is unique and diverse. Our government is committed to the wise management of Alberta's natural resources and environment for the long term benefit of Albertans. Those accessing public land for business or less intensive uses are concerned with ensuring the long term viability of their use and knowing the relationship they will have with the landowner (province).

As we move into the next millennium there will be increasing demands on this public land. This report provides the framework for legislative and policy change to ensure the sustainable use and protection of the resource. To ensure a timely delivery of actions, we have asked Mr. Tom Thurber, MLA and Chairman of the Agricultural Lease Review Committee to assist us with the implementation of the legislative and policy changes required from the report.

Thank you to all who took the time to provide input to the Agricultural Lease Review Committee.

A handwritten signature in cursive script that reads "Ed Stelmach".

Honourable Ed Stelmach
Minister
Agriculture, Food and Rural Development

A handwritten signature in cursive script that reads "Ty Lund".

Honourable Ty Lund
Minister
Environmental Protection



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Background

A number of public land agricultural leasing issues have been of concern to Albertans, and have caused both public land disposition holders and other members of the public to voice their concerns to the government.

On March 26, 1997, Premier Klein announced the appointment of Tom Thurber, MLA, Drayton Valley - Calmar to lead the review of public lands policies in the White Area of the province with special emphasis on grazing lease issues. On May 27, 1997, the Honourable Ed Stelmach, Minister of Agriculture, Food and Rural Development, announced the terms of reference for the *Agricultural Lease Review Committee*. Marlene Graham, MLA, Calgary Lougheed; Paul Langevin, MLA, Lac La Biche - St. Paul; Barry McFarland, MLA, Little Bow; and Ivan Strang, MLA, West Yellowhead were appointed to serve with Mr. Thurber.

Public land in the White Area covers approximately 6 per cent of the Alberta land base, or 10 million acres. This public land is primarily agricultural land (settled), managed for agriculture and multiple use.

Introduction

During October and November of 1997, the Agricultural Lease Review Committee held 23 public meetings in 20 locations across Alberta to listen to the views of Albertans and consult with them on the issues brought forward at each meeting. Before each public meeting, an open house was hosted by staff from Agriculture, Food and Rural Development and Environmental Protection to provide information and clarification of existing government policy and legislation for the management and leasing of public land in the White (settled) Area.

The Committee also invited written submissions to be sent in until December 31, 1997. In total, the Committee heard 259 verbal presentations and received 454 written presentations from Albertans. They reviewed the written and verbal presentations and used them to form the basis for the Interim Report, which was released for public review at the end of May 1998. In addition to the recommendations, the interim report contained the Terms of Reference of the Agricultural Lease Review, a full list of the public meeting locations, and a summary of the submissions received by the Committee.

Comments were received on the Interim Report by the Committee before the end of September 1998. During the four-month review period, the Committee received more than 1,000 written comments. They also discussed issues with individuals and groups during that time.

A Public Land Management Strategy

In March 1997, the Agricultural Lease Review Committee set out to hear the views of Albertans regarding the management of public land in the White Area of the province. The intent of the review was to examine viewpoints and current policies and practices, and to develop actions to resolve several long-standing issues regarding public land management. Most of these issues involve the balance between the rights and obligations of agricultural leaseholders, especially holders of grazing leases. Some examples of the issues are the degree of control of public access by grazing leaseholders, and the compensation received for industrial surface access. Much of the public land existing today was considered “marginal” or “wasteland” when settlers originally opened these areas for agriculture. Today the land is a valuable resource for livestock grazing.

Over the years, Alberta society’s needs and expectations have changed, and the balance of rights and obligations needs to be clarified at least, and changed, where necessary, to reflect the needs and goals of an Alberta poised to enter the next millennium. To accomplish this review, the Committee went to communities to hear what Albertans at the grass roots level had to say.

The following is the Government’s strategy for management of these public lands.

1. Alberta’s Public Lands in the White Area – Guiding Principles

Alberta’s provincial public lands, whether they are grasslands, forested lands or wetlands, possess a spectrum of unique attributes that Albertans value. Their essential quality seems to be that they are natural landscapes that have had limited alteration by human activity and as such, represent living links to the past. Historically, the principle uses for public land in the White Area have been livestock grazing in support of ranching and farming, with smaller parcels of cultivation and vacant public land primarily limited to the northern half of the province. Today, land leased for grazing remains largely ecologically intact, having unique soil, vegetation and animal life, where natural processes and functions are still at work.

Healthy grazing lease lands provide a variety of important values for the agriculture sector and society as a whole. To livestock producers, grazing lease lands provide an important supply of forage and water for livestock production. With careful management, stable flows of animal products can be sustained, and local individuals and communities supported, while maintaining the basic rangeland resources (soil, vegetation and water). In addition, grazing lease lands are important storehouses of biodiversity, supporting rich native plant communities and providing habitat for fish and wildlife species, as well as being valued for other natural resources. They are valued by many for their heritage, recreational and aesthetic merits. These lands are also vital to the proper functioning of watersheds and for providing quality water to downstream users. The lands also support the needs of industrial users. In short, grazing lease lands are managed under a multiple use philosophy to meet the many and varied needs of Albertans.

Although there are different and sometimes conflicting goals and aspirations for these lands, there exists a fundamental principle (a common vision) that was conveyed to the government – *that Alberta’s settled area public lands, and in particular grazing lease lands, are a precious resource that warrants careful, long-term*

stewardship and protection. Stewardship carries with it the responsibility to protect the health of the resource and long-term sustainable production through thoughtful management of the rangeland ecosystems.

Grazing lease lands are a wide range of sizes, from landscapes as large as townships, to individual quarter sections. At the large scale, these lands represent whole ecological units. At the small scale, they can be islands of native plant communities within the altered landscape. The common vision of Albertans for public land seems solidly behind maintaining the largely unaltered landscapes for a variety of private and public values. Included in this vision is consideration for the health of these landscapes. By understanding ecological principles, careful management nourishes the productive capacity of public land.

2. Goals

With the guiding principles in mind, these goals were used to refine the actions:

- Public lands are viewed by Albertans as a valuable asset to the province of Alberta, as well as legacies for Albertans. The management of these lands must sustain this legacy and also maintain a positive impact on the environment. They should be managed to achieve the greatest benefits to the province and its people.
- To the extent possible, as many Albertans from all walks of life should benefit from and enjoy the natural beauty and splendor of Alberta, including public lands. Use of these lands is not a right; but rather a privilege (i.e., Albertans do not have an unrestricted right to use all public land as some rights have been granted to disposition holders).
- The primary use of public land in the White Area should continue to be for agricultural purposes, although multiple uses will continue to be encouraged.
- The leaseholder should be recognized as a “steward” of their disposition.
- The grazing of livestock is recognized as essential in maintaining the biodiversity and productivity of the grasslands within the White Area.
- The livestock industry’s contribution is recognized in the development and growth of this province.
- Legislation, regulation, and policy should be uniform and clear. Information explaining the legislation and policies should then be provided to the public and to users to increase their awareness and understanding.

3. Issues

In general, there is a need for a revised arrangement with disposition holders to reflect current realities in public land management. Specific issues of importance are discussed below in a format that generally explains the issue, outlines the intention regarding that issue, and concludes with the actions. Other issues were also seen as important and these comments (Section 4) should be considered in future public land management policy development.

The following are the issues:

3.1 Sale of public land

Should public land that is used primarily for agricultural production be sold or retained under provincial ownership?

Intention

Continued use and conservation of public land under provincial ownership is supported. There is a public expectation that these lands will continue to be managed by the province. They are a resource which is an asset of the province. This intention will be tempered with orderly sales of vacant public land in the Northern Alberta Development Council Area, primarily in the Peace River Block, which are not required for provincial programs and conservation.

Action

The public land base in the White Area should be maintained under provincial control. The following exceptions are recognized:

- Public land in the White Area that is cultivated will be sold if no conservation reasons exist to preclude the sale and the existing disposition holder agrees to the sale. All land sales will be made through a public tender or auction. There will also be a provision to trade saleable public land for privately owned land of significant conservation value.
- Fragmented and/or fractional pieces of public land that are too small to provide a conservation value, and are inefficient to manage, will be sold by public tender or auction. The existing disposition holder must agree to the cancellation of the disposition if the land is to sold during the term of the existing lease.
- For the two previous actions, any existing agricultural leaseholder will have the right to match the highest bid in the public auction or tender.
- There is still a role for land in the Northern Alberta Development Council Area, primarily in the Peace River Block, to be sold for agricultural development if it is surplus to the province's needs. This would occur only as demand warranted and applications are received, in close cooperation with the local municipal governments and with public involvement.

3.2 Access to public land

One of the topics often discussed is the question of public access on grazing leases. Public access is generally considered by most people as meaning access for recreational uses such as hunting, hiking and birdwatching.

Intention

Opinions concerning public access on agricultural leases differ widely. Albertans' opinions on this issue tend to cover points such as who is the gate-keeper and what is the gate-keeper's role? The term gate-keeper does not literally mean that the agricultural leaseholder must stand by his gate. Rather, the term reflects the need for the leaseholder to have the ability to control recreational access to the land. The user is then responsible for contacting the leaseholder to obtain permission for access.

Agricultural lessees, in addition to managing the grazing lease, are also managing a business. Lessees can best manage both if they have control of activities that affect their livestock and the grazing resource upon which they depend. However, lands contained in agricultural leases frequently have natural and recreational values which the public would like to, and should be allowed to, enjoy.

Action

- The province, as the owner of public land, will designate the agricultural leaseholder as its gate-keeper for recreational access to the grazing disposition. Any recreational user wishing to access public land held under an agricultural lease must seek permission of the leaseholder. The leaseholder would allow reasonable access, but may deny access based on considerations such as the protection of the land base, protection of the grass resource, and the protection of personal property (including livestock) from the risk of damage resulting from the proposed activity or season of use.
- If the public recreational user considers that the agricultural leaseholder is unreasonably restricting access, they will be able to voice their concern by contacting the province, as the landowner. Public Lands staff in Agriculture, Food and Rural Development would discuss the concern with both the agricultural leaseholder and those recreational users wishing to gain access. If the concern has merit, Public Lands staff will work with the leaseholder to resolve the concern.
- If there is a long-term denial of reasonable access by the agricultural leaseholder, further action can be taken by the province (as the landowner), which in extreme cases may ultimately result in cancellation of the lease.
- The province, as the owner of public land, will encourage further education of all users of public land through an enhanced "Use Respect Program" and through other education initiatives.

3.3 Liability

There are concerns by the ranching community regarding the liability they carry when allowing recreational users onto agricultural dispositions they hold. Similarly, numerous recreational users empathized with the ranchers, and felt that recreational users should be responsible for their own actions.

Currently under the Occupier's Liability Act, visitors on public land leases are either "invited" or "trespassers". If an agricultural disposition holder allows someone to access the disposition, the person becomes "invited" and the agricultural disposition holder accepts the liability of a "common duty of care". Many agricultural disposition holders do not realize the liability they assume when allowing people on their disposition.

Intention

Public recreational access should be encouraged, with the public recognizing that the user is responsible for their own actions. Permission/waiver of liability slips could be issued to recreational users and signed by both the recreational user and the agricultural disposition holder. These slips would not be mandatory. The signed slips would remove a large part of the agricultural disposition holder's duty of care under the Occupier's Liability Act, and place the responsibility on the actual user. This approach balances the responsibilities of agricultural disposition holders and recreational users.

Action

- The Government should review the province's liability legislation with the intention that changes deemed necessary are made through legislation.
- As a part of the expanded "Use Respect" program, permission/waiver of liability slips be made available to agricultural disposition holders.

3.4 Industrial access and surface compensation

There are concerns about both the level of compensation paid to agricultural disposition holders and the amount of control agricultural disposition holders have over industrial development.

Intention

The province's role as landowner should be established in determining what industrial development will occur on public land. There should be a new arrangement between the landowner and the agricultural disposition holders for the surface compensation payments.

The intention and actions outlined for this issue are not intended to apply to negotiations on privately owned land.

Action

For new developments, and on existing developments after the "grandfather" period, the area under development would be removed from the agricultural disposition resulting in the resource developer paying individual lease fees on this area. These development areas would be returned to the grazing lease after the site has been reclaimed.

Arrangement for new oil and gas developments:

- A process will be used to ensure a three way discussion between the energy company, the agricultural leaseholder, and the province on any new development. The agricultural leaseholder's operational concerns need to be addressed and they need to be compensated directly for damages. The energy company would be required to provide the province with signed documentation showing the company has addressed the grazing leaseholder's operational concerns. In cases where the energy company and the grazing leaseholder cannot reach agreement, an arbitration process will be available. Access consent and approval for the energy project will come from the province.
- Although the new system will be different from the current system, the overall amount paid by the oil and gas industry would not be less than the amount currently paid for compensation and rental.
- The energy company must contact the agricultural leaseholder at the initial stage of development. The company will address the leaseholders operational concerns and arrange to pay for damages.
- The province would charge a first year and subsequent annual rental. These rentals will be based on regional comparisons of compensation paid on private land from the previous year.

- Access consent granted to the energy company will be provided by the province after the company has dealt with the agricultural leaseholder's operational concerns and arrangements have been made for payment of damages. There will not be an appeal process for the agricultural leaseholder for the access decision made by the province. An arbitration process will be available to address disputes that may arise between the agricultural leaseholder and the energy company over damages and operational concerns.
- In some rare instances, a former leaseholder either voluntarily gives up his lease or has it cancelled. The province would remove any industrial activity sites from the lease area before tendering out a new lease. The new leaseholder would not receive any compensation for those ongoing activities, since those areas would not be part of the lease.
- For pipelines, the activity area would not be removed from the agricultural disposition; however, the same process addressing access consent, operational concerns, and damages would be used as outlined above for oil and gas developments.

For other industrial developments such as sand and gravel, clay, peat, and other natural resources:

- The disposition area would be deleted from the agricultural disposition without compensation from the developer to the agricultural disposition holder. The developer will address the leaseholder's operational concerns and would arrange to pay for damages. In cases where the development company and the agricultural leaseholder cannot reach agreement, an arbitration process will be available.
- The province, as landowner, would collect a new first year payment and annual rental from the developer.
- With temporary authorizations made by the province, (e.g., for borrow pits), the use will be approved by the province. The developer will address the leaseholder's operational concerns and would arrange to pay for damages.
- Appeals would not be accepted on industrial access decisions from either the agricultural disposition holder or the industrial operator. In cases where the development company and the agricultural leaseholder cannot reach agreement, an arbitration process will be available.

Conservation and Resource Management Funding

- The existing funds collected for industrial developments would continue to flow into the general revenue of the province. Some of the "new" revenue created from the new arrangement for industrial development and exploration, will be used for conservation and resource management purposes. These funds would be used for such things as partial funding of resource enhancement, resolving multiple use conflicts, education, research, and increased monitoring of dispositions.

Phase-in Period

A phase-in period will occur.

- Existing oil and gas developments will be "grand fathered" for a 10 year period once the new proposals are adopted. This will allow the grazing leaseholders with existing oil and gas developments to maintain their existing compensation arrangements until the natural productive end of the development, or 10 years, whichever occurs first.
- All new oil and gas and other industrial developments would be approved under the new arrangements.

3.5 Industrial access for resource exploration

Concern was expressed by exploration companies (e.g., oil and gas, sand and gravel, metallic minerals) that agricultural disposition holders limit and sometimes deny access to explore on public land under agricultural disposition.

Intention

Again, the province's role as landowner should be clearly established in its determination of what resource exploration activities can occur on public land.

Action

- Access consent to the exploration company will be provided by the province after the company has dealt with the agricultural leaseholder's operational concerns and arrangements have been made for payment for damages. Appeals on land use decisions would not be accepted. In cases where the exploration company and the agricultural leaseholder cannot reach agreement, an arbitration process will be available.
- Fees (e.g., Permit Fees) by the exploration operator would be paid to the province (as landowner). The province will develop a schedule of fees that would be paid to the province by the exploration operator, based on regional comparisons of fees paid on private land. The exploration operator pays the agricultural leaseholder directly for damages to his improvements.

3.6 Environmental protection

This issue revolves around the protection and use of natural resources on public land. This is a key issue which is addressed in provisions of many of the earlier issues.

Intention

The protection of natural resources and the sustainable use of these resources are key considerations for a long-term public land management strategy. Natural resources should be protected and enhanced where possible and practical. Use of these resources must be done in a sustainable way to ensure the resources are available to future generations.

Action

- A stewardship code of practice will be developed for agricultural users with their involvement. This code of practice would be the barometer for measuring "good stewardship". A code of practice will also be developed for other users of public land. These codes will be publicized and will be used in determining tenure (see Section 3.8).
- All dispositions on public land will have mandatory audits every five years by provincial agrologists. When problem cases are identified, they will be checked yearly until the problems are resolved.
- Privately owned lands more suitable for conservation purposes will be acquired through the trade of saleable, less sensitive public lands.
- Grazing disposition holders will continue to file annual stock return forms, which would also note stewardship.

- Riparian areas on public land will be a priority for management. The proper management of these areas will be part of the code of practice to be developed. Stewardship courses for agricultural disposition holders, as well as monitoring and enforcement, will continue and be enhanced.
- Education and information initiatives with disposition holders will be continued and enhanced. Work with agricultural users has been extremely effective through efforts such as the “Cows and Fish” program.
- The increased funding for conservation resource management purposes will assist in resource enhancement projects, increased monitoring of dispositions, education, research, and helping to resolve some multiple use concerns.

3.7 Rental rates and municipal taxes

Grazing disposition holders are currently responsible for paying municipal taxes on public land they hold under disposition. They pay these taxes directly to the municipality. Submissions received by the Committee indicate that the relationship between the province, as the owner of public land, and their tenants should be more in line with that of a private landowner and their tenant. Taxes are paid by the province on Provincial Grazing Reserves.

Intention

The province, as the landowner, should be responsible for the municipal taxes on their land. Similar to what happens in a private landowner and tenant relationship, the cost of these taxes would be built into the disposition fee charged by the landowner. The landowner, not the tenant, then pays the taxes directly to the municipality.

The rental rates on public land grazing leases should be equivalent to private land arrangements, where similar services are provided. The new rates should also recognize the service that leaseholder’s provide as “stewards of the resource”.

Action

- The grazing disposition holder will no longer be responsible for paying taxes directly to the municipality for public land under disposition. Instead, the province, as landowner, would forward to the municipalities the amounts normally assessed as taxes on these public lands. These payments would be in the form of a “Payment In Lieu of Taxes”. Grazing fees would be re-defined to reflect such an arrangement, with the grazing disposition holder paying a “comprehensive fee” for the disposition. The complete fee will be based on a formula that is flexible, and considers changes in cattle prices and changes in the applicable municipality’s tax rate.
- Rental rates will be reviewed after the changes recommended in this report have been implemented and a new landowner/tenant relationship has been developed. The review should consider the role the leaseholder plays as a “steward of the resource”. In the interim, rental rates will include municipal taxes.

3.8 Grazing disposition assignments and tenure

This issue revolves around the ability to transfer the disposition and the length or term of the disposition.

Intention

Grazing lease assignments should continue as they are currently done, with the province charging an assignment fee on an animal unit month basis.

Some have called for increased tenure on grazing dispositions held by proven “good stewards”. The province, as the landowner, must rely on the grazing disposition holder to be the resident “steward” of the disposition and “gate keeper” of the disposition for recreational access. Good stewardship should be rewarded and poor stewardship must be addressed. Stewardship should be recognized in the tenure of a disposition.

Action

- Registration or assignment fees paid to the province by the existing disposition holder will remain and continue to be set as they are currently.
- Registration or assignment fees should be paid to the province on the transfer of shares by a corporation that holds an agricultural disposition.
- Assignments within the “family”, for both individuals and corporations, should continue to be supported and charged a nominal flat fee.
- Good stewards (as defined by the code of practice) should be rewarded with 20-year leases.
- First time lease terms should be 10 years. However, first time leaseholders should be audited more frequently than the mandatory five year audits recommended in the Interim Report and enforcement measures be taken if the new leaseholder fails to comply with the provisions of the code of practice.
- For disposition holders that have a track record of poor stewardship, a probationary lease term would be initiated for one to five years. This disposition term would provide a warning to the leaseholder that their stewardship is in question and further action will be taken if it does not improve and would be audited yearly.

3.9 The name “public land”

Several issues and concerns revolve around the name “public land”.

Intention

Public land is land owned by the province and managed for Albertans. The term “public” gives an impression of ownership by all and an undeniable right for the public to use these lands, irrespective of prior rights being granted. The term “Crown” was seen to be too all encompassing and inclusive of other land managed by the province such as Provincial Parks or the Federal Government land. In the second round of consultation, the Committee heard from numerous individuals and groups who feel the change to provincial lands was inappropriate and was an attempt to take away rights from the public. Public land is viewed as the appropriate name.

Action

The term “public lands” should remain as is.

4. Comments

The following issues were seen as important, and will be considered in future public land management policy development.

4.1 Public involvement

We recognize public involvement as an important part of making decisions on the use of public land. Today, there are opportunities for public involvement at all levels of decision making on public land, ranging from regional integrated decisions covering a large area, to local site-specific decisions such as for a grazing disposition or mineral surface lease. Public Lands staff manage public land in the White (settled) Area of the province on behalf of Albertans. With this in mind, Public Lands staff, in their role as the land manager in the White Area, consider a number of factors in deciding when public involvement is required to help them make their land management decisions. This process is reasonable.

4.2 Wildlife management

The protection of wildlife habitat is important. However, because of the transient nature of wildlife movement, the management of wildlife becomes a larger issue. The protection or enhancement of wildlife habitat on public land, with the joint cooperation of the agricultural disposition holder, should be supported. Other initiatives were also discussed earlier in Section 3.6, *Environmental protection*.

4.3 Access for trappers

Access for trappers to their registered traplines should be allowed. However, more communication between the agricultural user and the trapper must occur, to ensure each understands the other's needs and concerns.

4.4 Grazing zone boundaries

There are concerns about the difference in grazing fees north and south of the North Saskatchewan River (boundary between grazing zone B and C). There were suggestions that the Peace River Block (in zone C) has more adverse differences as compared to the rest of zone C, north of the North Saskatchewan, than does land north and south of the North Saskatchewan River. The boundary should be reviewed and consideration be given to creating a boundary that makes zone C the Peace River Block only.

4.5 Municipal needs

Municipalities will have some priority for use of resources on public land when the resource is needed for a public work. The province, as landowner, will be able to withdraw parcels from a disposition without the agreement of the disposition holder, as such occurrences are considered to be for the public good (e.g. municipal needs). There would be a three-way discussion between the disposition holder, the

province, and the the municipality. The municipality would address the leaseholder's operational concerns and would arrange to pay for damages.

4.6 Fragmentation of public land

Provincial policies should not create pressure for the fragmentation of public land into smaller and smaller lease units. Although this should not be "regulated", some encouragement will be made to maintain the size of the units. Where a conservation easement is placed on private land, tenure on public land leases held in conjunction with the private land could be increased to provide a degree of protection to the whole ranching unit.

4.7 Shared Stewardship Accord between Environmental Protection and Agriculture, Food and Rural Development

The Shared Stewardship Accord is a success. It provides a "partnership" between the administration and management of public land. Agriculture, Food and Rural Development should continue to manage public land in the White Area as does Environmental Protection manage public land in the Green (forested) Area. Agriculture, Food and Rural Development should continue to be the one-window for management of public land in the White Area.

4.8 Grazing subletting

Subletting (also known as subleasing) is an agreement where the grazing disposition holder receives a payment from the third party in exchange for the third party's use of the land for grazing. Currently, subletting of a grazing disposition is not allowed except in extraordinary circumstances, such as estate cases, medical problems of the disposition holder which temporarily prevent his use of the land, or other exceptional situations such as fire or drought. Subletting, in these cases, is considered a last resort, is short-term in nature, and must be approved by the province.

The current policy regarding the subletting of grazing dispositions is appropriate. The current system provides enough leeway to deal with unusual situations that may face producers. Current policies and procedures regarding the subletting of grazing dispositions are working well, and no changes are necessary.

4.9 Aboriginal issues

Aboriginal groups and individuals have made comments on a number of issues. As these issues were outside the mandate of the Committee, they have been forwarded to the Department of Intergovernmental and Aboriginal Affairs for their information and appropriate action.

4.10 Identification of public land

Some people cannot identify which lands are public and which are private. Wherever possible and practical, public land should be identifiable.

We recommend that the Department of Alberta Municipal Affairs consult with local municipalities to encourage standardization of the identification of public land on municipal maps.

4.11 Agricultural dispositions

The current range of agricultural dispositions (lease, licence, permit, and grazing contract) should be reduced to either an agricultural lease or an agricultural agreement. Agricultural leases will be issued for short-term or long-term periods, recognizing the leaseholder's stewardship. Agricultural agreements will cover the situations where the land's primary use is not agricultural. Either disposition would include the appropriate conditions.

4.12 Definition of livestock

Currently, the Public Lands Act allows the grazing of "livestock" on public land. "Livestock" is defined in the Act as cattle, horses and sheep. Over the years, the practice has evolved to allow the grazing of bison, although they are not included in the definition.

The multiple use of public land should be supported as well as the desire for diversification of the livestock industry in Alberta. Sound range management can include the grazing of bison. However, dispositions issued for grazing of these animals often result in single use areas. In addition, fencing required to confine these animals can restrict wildlife movement. The temperament of the bison as well as the fact that they often graze year-round restricts the use of these lands for other purposes.

With these factors in mind, the Public Lands Act could be amended to expand the definition of "livestock" providing this "new" type of livestock is proven not to place new limits on the multiple use of these areas. Fencing of grazing dispositions should not impede wildlife movement.

4.13 Timber harvesting on agricultural dispositions

Grazing leaseholders have expressed concerns that logging timber on the grazing lease can seriously impact their ability to graze cattle. The value of the timber industry in Alberta and the need to access the timber resource should be recognized. A grazing lease does not convey any rights or priority to the timber resource on the lease area except for timber removal around the perimeter fence construction.

The timber operator, the grazing leaseholder, and the province should be involved in discussions at the earliest possible time to ensure that impacts on livestock grazing are minimized, and cleanup and reclamation/reforestation is planned and implemented in consideration of the grazing use. Wherever possible, summer logging will be avoided. Any damage to improvements (e.g., fences, roads) by the logging operation must be corrected by the logging operator, or compensation for these damages paid to the grazing leaseholder.

When logging on a grazing lease occurs under a sustained-yield timber program, up to 40 per cent of the productive upland will be considered for conversion to permanent pasture. Any conversion to permanent pasture will be part of the grazing lease management planning process involving the province and the grazing leaseholder.

4.14 Timber resources on public land in the White Area

Significant timber resources exist on public lands in the White Area throughout the province. These timber resources are normally not subject to long-term commitment, and are harvested under short-term permits or licenses, usually when the land is being converted to agriculture. Both companies and individuals in the timber business have expressed their desire to gain long-term control over a White Area public land base for timber management and harvesting – what they all refer to as “woodlot”.

A new woodlot disposition should be investigated that would give the right to manage and harvest timber on a sustained-yield basis from a specific area of public land. The term of the agreement could be up to 20 years, and the area would normally be small (e.g. one or two sections). The operator of the woodlot disposition will have exclusive rights to harvest timber within the defined area, and will be responsible for preparing a timber management and harvest plan, reforestation, annual reporting on logging, and payment of all fees. Crown timber dues and an annual fee for use of the land should also be levied. The operator will not have the right to control access.

Woodlots should be allocated to individuals or associations, rather than the larger operators. There is at present little opportunity for smaller operators to enjoy the same security of supply as the larger companies. The opportunities are also greater for the small operators to process the timber into higher-valued products.

Woodlot dispositions would preferably be established on vacant land, but could also be issued on grazing dispositions. While some timber harvesting and reforestation currently takes place on some grazing leases, it requires good cooperation between grazing lessees and loggers.

A long-term relationship between a woodlot operator and a grazing lessee will need to clearly lay out the respective rights and responsibilities of both parties and ensure proper cleanup, reclamation, and reforestation by the woodlot operator. The association form of woodlot disposition might be especially appropriate on grazing dispositions. The smaller operators would have access to wood, but the larger association could take some of the responsibility for ensuring a smooth relationship with the grazing disposition holder. Currently, grazing disposition holders who want to do range improvement clearings must wait for timber permits to be issued, logging to happen, etc., a process that can take a couple of years. Fenceline clearing can involve substantial amounts of salvage timber, but often it is not economical for a logger to remove the timber. A woodlot operator on the same area could work with the grazing leaseholder to expedite the logging.

A planning mechanism would also be needed to determine how much land in the White Area should be designated for long-term timber production. This process should also designate areas suitable for woodlot disposition, both from the timber/ natural resource perspective, and also from the perspective of community and public acceptability. An allocation mechanism would also be needed to choose the woodlot operators. Some jurisdictions base selection on a detailed evaluation of the qualifications of the individual; the process most commonly used for public land and timber dispositions is high bid through auction or tender.

5. Where do we go from here?

The government will proceed with the necessary legislative changes as soon as possible. Implementation of many of the provisions in this report will require stakeholder involvement. Mr. Tom Thurber, Chairman of the Agricultural Lease Review Committee, has been asked to assist the Ministers of Agriculture, Food and Rural Development and Environmental Protection with the implementation of the legislation, regulation, and policy changes required from this report.

Appendix I

Definitions

For the purposes of this report, a number of terms have been used that have a particular meaning. In order to aid the reader in clearly understanding the report, these terms are defined below:

Agricultural agreement	– issued when the primary use of the land may not be agriculture. The agricultural component will still be managed under an agricultural agreement, for short or long-term grazing, with appropriate conditions.
Assignment	– a written transfer of interests and rights from the disposition holder (assignor) to another party (assignee) of the terms of the existing agreement.
Damages	– actual physical harm done to leaseholder's improvements such as fences, dugouts and water wells, as well as damage to forage, annual crop, or livestock.
Disposition	– a land use contract issued under the Public Lands Act. Currently a disposition may be a lease, licence, or permit. In the future, an agricultural disposition would be only a lease or grazing contract.
Gate keeper	– as the landowner, the province would designate the agricultural leaseholder as its "gate-keeper". The disposition holder would then have the ability to control recreational access to the agricultural disposition.
Lease	– issued primarily in situations where the primary use is grazing, and will be issued for short or long terms.
Operational concerns	– issues that affect an agricultural leaseholder's operation and which can be mitigated in some manner. These concerns are unique to each site and farm or ranch operation.
Reasonable access	– is unpaid public access which would not adversely impact the livestock operation or cause damage to the grass resource or improvements created by the disposition holder.
Recreational user	– a member of the public who temporarily uses public land for recreational pursuits including, but not limited to, hiking, hunting, birdwatching, fishing, trail riding, bicycling, skiing, berry or herb picking, photography, camping, off road vehicle use, and snowmobiling.
Stewardship	– carries the responsibility to assist in protecting the resource health and long-term sustainable production of the agricultural disposition through careful management of the components of rangeland ecosystems.
Tenure	– the length of a term of a disposition.



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